IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 11947 of 2005

Between:

1 Abida Jaffari D/o.S.A.Azgar Jaffari
R/o. Mirzapur Village, Poodur Mandal, Ranga Reddy District.
2 Abdul Haseeb Khan S/o.Abdul Kabir Khan
R/o. Mirzapur Village, Poodur Mandal, Ranga Reddy District.
3 Abdul Baseer Khan S/o.Abdul Kabir Khan
R/o. Mirzapur Village, Poodur Mandal, Ranga Reddy District.
4 Abdul Waseem Khan S/o.Abdul Kabir Khan
R/o. Mirzapur Village, Poodur Mandal, Ranga Reddy District.

... PETITIONERS

AND

1 Government of A.P Rep. by its Secretary Rev(Assignment.V)
Department, Secretariat, Hyderabad.
2 The Chief Secretary and Chief Commissioner Land Administration, Government of A.P.Hyderabad.
3 The District Collector, Ranga Reddy District, at Hyderabad.
4 The Revenue Divisional Officer, Vikarabad Division, Ranga Reddy District.
5 The Mandal Revenue Officer Poodur Mandal, Ranga Reddy District.
6 Government of A.P Rep. by its Secretary Rev(Assignment.V)
Department, Secretariat, Hyderabad.

...RESPONDENTS

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 11947 of 2005

ORDER:

1. This writ petition has been filed by the petitioners who are four in number with a prayer to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the impugned action of the 1st respondent authority Memo No. 46449/Assignment.V(1)/2003-1, dated 28-1-2005 in rejecting the proposal of 6th respondent for regularization of purchase of assigned land admeasuring Ac. 20-37 guntas comprising S.No. 122/4, 5,9,12 and 13 of Mirzapur village, Poodur Mandal of the petitioners as arbitrary, illegal and violative of Articles 14,21 and 300-A of the Constitution of India.

2. The petitioners are purchasers of assigned land admeasuring Ac. 20-37 guntas comprising S.Nos. 122/4, 5,9,12 and 13 of Mirzapur village. Proceedings have been initiated for resumption of the land under A.P. Assigned Land (P.O.T.) Act, 1977. The petitioners challenged the proceedings by filing an appeal before the Revenue Divisional Officer,Vikarabad. Their appeal ended in dismissal and thereafter they filed revision unsuccessfully before the Joint Collector. Thereafter, the petitioners submitted an application to regularize their purchase. The 1st respondent-Commissioner rejected the proposal of regularization of the sale by Memo No. 46449/Assignment.V91)/2003-1, dated 28-1-2005. Hence, this writ petition assailing

the said Memo, dated 28-1-2005.

3. A counter-affidavit has been filed on behalf of the respondents. One L.Premchandra Reddy has sworn to the counter affidavit. It is stated in the counter affidavit that the benefit as claimed by the petitioners under G.O.Ms.No.30, dated 12-1-1994 could not be given to them due to long lapse of time. Para 5 of the counter-affidavit reads as follows and it is thus:-

> *"The petitioner has contended that the Mandal Revenue Officer and the Revenue Divisional Officer have not considered the facts set out in the detailed explanation to the notice of authority that the petitioners are bona fide purchasers for a valuable consideration and also one of the important and relevant fact that in an identical situation. The contention of the petitioners, the 1st respondent-Government issued G.O.Ms.No. 30, dated 12-1-1994 allowing the individual to purchase the assigned land on payment of market value and it does not entitle the petitioner for the same relief after 11 years. The circumstances in 2005 are different from 1994. In this regard it is submitted that the Revenue Divisional Officer in his order observed that the lands were sold two times within a period of one year. First transaction took place between assignees and the vendors of the petitioners. The second time transaction took place between the purchasers of the assigned lands and petitioners. That the petitioners have not purchased the land from assignees in good faith and they do not fall in the category of land less poor and the ground that the purchase in good faith is taken by every purchaser of assigned lands. Regarding the consideration of the petitioners case as that of other persons in G.O.Ms.No.30, dated 12-1-1994, the Revenue Divisional Officer has observed that the petitioners have voluntarily expressed their desire to get the suit land i.e., assigned land on payment of market value fixed by the Government. But, the Mandal Revenue Officer is not competent to propose the lands for market value more over the petitioners are not land less poor persons. Further, the Revenue Divisional Officer has observed that the case of the petitioners attracts the provisions of Section 3(1), but not U/s 3(5) of the A.P. Assigned Lands (POT) Act, 1977. Further the provisions of Sub-Section 1 to 3 of Section 3 of the Act having been contravened by the petitioners, the District Collector, and the Revenue Divisional Officer have upheld the order passed by the Mandal Revenue Officer, further the Government has rejected the application of the petitioners for purchase of subject land for market value by the order dated 28-1-2005. In*

view of the above the contention of the petitioner that their case was not considered is far from facts."

4. Heard the learned counsel for the petitioners and learned Government Pleader for Assignment appearing for Respondents.

5. The learned counsel for the petitioners submits that the petitioners are bona fide purchasers, and therefore, their case is to be considered in similar lines as that of one Smt. B.Nalini Shankar, whose sale has been regularized on payment of market value of Rs.15,000/- per acre.

6. The learned Government Pleader for Assignment appearing for the respondents submits that G.O.Ms.No. 30, dated 12-1-1994 relates to a single individual and that too in the year 1994 and therefore, the petitioners cannot seek the same benefit now in 2005.

7. Admittedly, the lands in possession of the petitioners are the assigned lands and necessary steps have been taken for resumption of the assignment of land. The petitioners have exhausted the appeal remedy as well revision remedy and thereafter approached this Court by invoking extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

8. G.O.Ms.No. 30, dated 12-1-1994 relates to single individual and that too of the year 1994. The petitioners cannot compare their case with that of Smt. Nalini Shankar after long lapse of 11 years. Since the petitioners have lost their case before all the three authorities, viz original authority, appellate authority and revisional authority, they are not entitled to claim regularization of their purchase of the lands in question.

9. Accordingly, the writ petition is dismissed. No order as to costs. However, it is brought to the notice of this Court by the learned counsel for the petitioners that there is every likelihood of Government reconsidering the memo issued by the 1st respondent. In such a situation, this order will not come in the way of the Government in reconsidering the impugned Memo.

B.Seshasayana Reddy,J

25th July, 2005

KM

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

W.P.No. 11947 of 2005

-

-

-

-

-

-

-

-

-

-

-

25th July, 2005.